

TOWN OF SHIRLEY
MINUTES OF THE ANNUAL TOWN MEETING
June 7 & 8, 2010

Moderator George Knittel opened the 2010 Annual Town Meeting on Monday, June 7, 2010, at 7:17 p.m. at the Shirley Middle School Auditorium, 1 Hospital Road. Retired Fire Chief Alphee Levesque Jr. led the meeting in the Pledge of Allegiance. The Town Clerk had sworn in the following individuals as tellers: Dwight Mike Detillion, Frank Esielionis, Alphee Levesque Jr., and James Thibault. Marjorie Marcinkewicz and Barbara Masiero checked in voters. 96 voters had checked in by 7:30 p.m. and 102 voters had checked in by 8:10pm.

Town Counsel Gary Brackett of Brackett and Lucas was in attendance and seated at the Selectmen's table on the stage

Article 1. Accept Annual Town Report

Selectman Armand Deveau moved that the Town accept the Reports of the Selectmen and other Town Officers for the Fiscal Year July 1, 2008 through June 30, 2009, as published and promulgated, a copy having been filed in the Office of the Town Clerk. Town Administrator Kyle Keady Seconded.

Finance Committee recommended favorable action.

Amendment 1: Denise Brauckmiller moved to present the Conservation Commission's approved Annual Report as a substitution for the unapproved report included in printed versions of the Annual Report. Motion seconded.

The version of the Conservation Commission's report initially included in the Town's Annual Report was a draft early version. The commission had accepted a later final version at a meeting after the earlier version had been handed in for publication. This was discovered by the Conservation Commission when the Annual Report was circulated for review between the May 11 Annual Town election and the June 7 Annual Town Meeting. This motion will allow the final version to be printed in the Annual Town Report going forward.

A copy of the wording of the final version is included below.

CONSERVATION COMMISSION

Administration

This report covers FY09 from July 1, 2008, through June 30, 2009.

The Conservation Commission reviews and issues permits for work within and adjacent to wetlands and waterways in order to administer the Massachusetts Wetlands Protection Act (MWSA) regulations and the Shirley Non-Zoning Wetlands Bylaw (SNWB). The Commission also responds to many requests for comments on applications submitted to the Planning Board, Zoning Board of Appeals, and Board of Selectmen.

During FY09, the Commission held 25 public meetings. Administration of the wetlands protection statutes required the Conservation Commission to review/issue the following documents:

Requests for Determination of Applicability	2
Determinations of Applicability	0
Notices of Resource Area Delineation	0
Orders of Resource Area Delineation	0
Notices of Intent	19
Orders of Condition	14
Certificates of Compliance	5
Extension Permits	4
Amendments	0
Violations	10
Emergency Certifications	0

The Commission collected \$ 3,127.50 in MWPA filing fees during FY09. These fees are maintained in a special account, can only be used to administer the MWPA, and are typically used to defray some of the Commission's expenses. The Commission also collected \$ 1,370.00 in filing fees under the Shirley bylaw.

The Conservation Commission reminds property owners that projects (including sheds, tree removal, pools, etc.) within 100 feet of a wetland (brook, pond, swamp, etc.) or in floodplain areas must be reviewed by the Commission. In addition, work within 200 feet of a perennial stream may also require a filing. Please call the office at 978-425-2600 Ext. 245 if you have any questions regarding wetland issues or if you are uncertain whether you should file, particularly if you are a new homeowner. The Commission encourages residents to retain native vegetative borders between their lawns and adjacent wetland and waterway buffer areas.

The Commission can be contacted at 7 Keady Way, Shirley, MA 01464; 978-425-2600 Ext. 245; or by e-mail at conservation@shirley-ma.gov. The Commission's pages on the Town of Shirley website at <http://www.shirley-ma.gov/> provide a store, where book and hay sale information is posted, in addition to meeting agendas and legal notices, basic information, a complete set of past annual reports, news clippings, information on related events, and an interactive open space map.

Open Space Acquisition & Stewardship

The Conservation Commission maintains and acquires open space for the Town of Shirley. Open space is valuable to town residents as passive recreational land (hiking, birdwatching, etc.), for protecting water resources, for providing important fish and wildlife habitat, and for enhancing the overall desirability of living in our community. The Massachusetts Division of Fisheries and Wildlife and the U.S. Fish and Wildlife Service also preserve open space within Shirley.

Due to fiscal constraints, no money has been added to the Open Space Acquisition Fund via Town Meeting vote since June 13, 2000. This account is used not only for acquisition but also for maintenance of existing town-owned open space parcels.

Volunteer Ward Baxter continues to create comprehensive maps for the Commission and to work with volunteers to maintain trails on open space parcels. A beautiful set of six color trail maps, created by Mr. Baxter and donated to the Commission, may be purchased at the Commission office for \$5.25, with proceeds going to the Land Acquisition Fund. Black-and-white trail maps are also available free of charge at the Commission Office and at the Hazen Library.

During the past 12 months, trail improvements and other routine property maintenance continued on conservation parcels with the help of volunteers. We are grateful to the Shirley Boy Scouts and Girl Scouts who helped out many times, their parents assisting with power tools. Thanks to Ron Farnsworth and Ward Baxter who also helped. We thank Phoenix Park owner Eric Shapiro for repairing the gazebo and sign at the Fredonian Nature Center.

The 2008 Fall Foliage Walk happened on October 11 under sunny skies. Thanks to Art Banks and the Field family who hosted the hikers, and John Rounds, Ward Baxter and Dan Stevens who escorted them. On June 27, 2009, a hike officially marked the opening to the public of the Shirley portion of the Oxbow National Wildlife Refuge. The Esker Loop trail is now open for hiking. Thanks to the U.S. Fish and Wildlife Service and the Friends of the Oxbow for making this happen.

Longley Acres Conservation Area

The Longley Acres Conservation Area on Whitney Road, which was acquired in April 2003, is under the care, custody, and control of the Conservation Commission. Matt Gagnon was the Caretaker most of this fiscal year and then the present Caretakers, Steve and Kim Hampson came on board. They can be reached at 978-761-3406 or 978-761-5824 or at longleyacres@ymail.com

The Commission continued to focus on maintenance needs for the house and barn in order to preserve the site and buildings and to prevent deterioration and ensure user safety. Several projects were completed, including upgrading of appliances.

We thank Stephen Longley and numerous other volunteers who helped us bring in the hay in FY09. Approximately 800 bales were made and sold. This was a difficult haying season to date, with heavy rainfall compromising the quality of feed hay. All proceeds from the sale of the hay are used for maintenance of the Longley Acres buildings and parcel. For information on purchasing hay, check out the website store or contact the Commission or the Longley Acres Caretaker directly.

We continue to sell *As Seasons Change: A Collection of Poems by Melvin Proctor Longley, Sr.* The Longley family compiled the poems and generously donated all proceeds from the first edition to the Longley Acres Maintenance Fund. We also still have copies of Betsy Colburn's must-have reference *Vernal Pools: Natural History and Conservation*. These two books are still available at the Conservation office.

The Longley Acres property has been entirely self-sufficient to date, with improvements paid for by a combination of donations, hay sales, book sales, and grants. The public is welcome to enjoy the property daily from sunrise to sunset.

Staff

After almost a decade of no changes in its office staff, the Commission got both a new part-time administrator, Chuck Katuska, and a new part-time secretary, Anna J. MacDonald, this fiscal year. Outgoing administrator Anne Gagnon was named Conservation Administrator of the Year by the Massachusetts Association of Conservation Commissions. She was honored by the Nashua River Watershed Association at its 40th anniversary gathering as well. We thank her and outgoing secretary Ruth Terry for their loyal service.

Members

Jeff Barbaro and Jessica Rinner left the Commission, and we were joined by Sheri Bean and Christine Scesny during this fiscal year. The Commission is currently looking for three additional members. People interested in joining the Commission may also become non-voting Associate Members.

Respectfully submitted,

Denise Brauckmiller, Chair	E. Heidi Ricci, Associate Member
Bob Burkhardt, Vice-Chair	C. Kay Tohline, Associate Member
Sheri Bean, Secretary	Margaret Cronin Wilson, Associate Member
Christine Scesny, Member	Nancy Askin, Associate Member

Hand Vote on Amendment 1: unanimous vote; amendment passed.

Hand Vote on Main Motion as Amended: Unanimous vote in favor. Main motion as amended passed.

Article 2. Pay Prior Year's Bills

Armand Deveau moved that the Town vote to appropriate the \$50.00 to be expended by the Ambulance Department, in order to pay bills of a prior Fiscal Year to Ricky's Towing for Repairs to the Ambulance. Kyle Keady Seconded.

Finance Committee recommended approval of the article.

Hand Vote: unanimous vote in favor; motion passed.

Article 3. Amend Appropriations for the Current Fiscal Year

Armand Deveau moved that the Town vote to amend the amounts appropriated under Article 9 of the June 8, 2009 Annual Town Meeting by reducing Line Item #913 – "Unemployment Insurance – Expenses" by \$50,000 to a revised budget of \$220,000; and further to appropriate \$50,000 to the Stabilization Fund of the Town by transfer from available funds. Kyle Keady Seconded.

Kyle Keady explained that there was a surplus of about \$100,000 in the Unemployment Expenses Line item. This was because the town was fortunate that many of the persons who were laid off for this fiscal year (FY10) were able to secure jobs and did not claim the full extent of the Unemployment Benefits allocated. This article proposes to transfer \$50,000 of the surplus to the Stabilization Fund so that it could be used as a funding source for the FY11 budget. Approximately \$49,500 had been transferred by vote of the Board of Selectmen and Finance Committee the week before to cover deficits in other FY10 budget lines: Snow and Ice and Veteran's Benefits. Therefore, no additional surplus remained to potentially fund other items in FY11.

Finance Committee approved the article.

Hand Vote: Moderator saw no opposition and declared the motion passed by more than a 2/3 vote. Motion carried.

Article 4. Adopt General Operating Budget for FY11.

Frank Kolarik of the Finance Committee moved that the Town appropriate \$12,941,460 for the General Operating Budget of the Town for the period beginning July 1, 2010 through June 30, 2011, in order to defray the operations and other necessary and proper charges, costs, and expenses of the Boards, Commissions, Committees, Officers, and Departments of the Town, together with the payment of debt service, for said Fiscal Year 2011, with each item considered to be a separate appropriation, as set forth in the Warrant;

and further, that the Town authorize the Board of Selectmen, with the concurrence of the Finance Committee, to transfer funds among line items defined within the budget, provided that such transfers shall only occur within the last two months of the fiscal year, and the total transfer amount shall not be more than 1% of the total budget amount, and provided further, that any such transfer shall require a majority vote of each of the Board of Selectmen and the Finance Committee at a duly posted public meeting.

Such amounts to be provided by taxation and/or by transfer from available funds (Free Cash, Stabilization Fund, etc.).

Kyle Keady seconded.

Presentations by the Finance Committee and Board of Assessors highlighted that this was a "budget survival year" – the recession was not showing signs of recovering and the town's financial reserves continued to be low. The town does not raise enough from basic taxation to cover the services that we provide and that residents want. Regionalization and consolidation of services will need to continue to be pursued.

Moderator Knittel reviewed the budget line item by line item, giving meeting attendees the option to place a hold on lines they wanted further discussion on.

Holds were requested for the following line items:

#221 - Police Department

#292 - Dog Officer

#321 – Nashoba Valley Technical High School

#330 – School Department

#541 – Council on Aging
#692 – Memorial Day

The moderator advised that we would vote first on the items that had not been held; then, after discussing the held items, we would vote on those separately.

Kyle Keady moved that the town appropriate \$5,585,963 for the for the General Operating Budget of the Town for the period beginning July 1, 2010 through June 30, 2011, in order to defray the operations and other necessary and proper charges, costs, and expenses of the Boards, Commissions, Committees, Officers, and Departments of the Town, together with the payment of debt service, for said Fiscal Year 2011, with each item considered to be a separate appropriation, all as set forth in the Warrant, such amounts to be provided by:

\$5,447,908.46	from Raise and Appropriate
\$2,400.00	to be appropriated by a transfer from the Town's Sale of Cemetery Lots Receipts Account
\$11,100.00	to be appropriated by a transfer from the Perpetual Care Account
\$198.54	to be appropriated by a transfer from the School Bond Premium Reserve
\$1,616.00	to be appropriated by a transfer from the Wetlands Filing
\$5,000	to be appropriated by a transfer from the Recreation Basketball Revolving Fund
\$6,740	to be appropriated by a transfer from the Soccer Revolving Fund
\$6,000.00	to be appropriated by a transfer from the Benjamin Hill Park Revolving Fund
\$25,000.00	to be appropriated by a transfer from the Massachusetts School Building Assistance Program Receipts Reserve Account.
\$50,000	to be appropriated by a transfer from the Stabilization Fund
\$30,000	to be appropriated by a transfer from the Overlay Surplus

Motion seconded.

Hand Vote: Unanimous vote in favor. Motion passed.

Then the discussion of the held line items began

#211 – Police Department

Paul Wilson proposed to make an amendment for a proposition 2 ½ override to fund the salary and benefits of a police chief for \$100,000. Enrico Cappucci offered to speak to the idea. He had been working with the Police Department to review their staffing, and would be presenting his findings to the Board of Selectmen at their next meeting. He advised that the PD needed an additional officer instead. They were looking at eliminating the Lieutenant's position, which was vacant, and creating a Sargent's position instead. They had also applied for a fast cops grant that would cover the cost of a police officer for three years, and the town would need to cover the cost for the fourth year.

Bob Eramo brought up a point of order that the amendment was more than 10% above the amount in the warrant. It was explained that the amendment can be for

an amount greater than the 10% cap if the amount was to be subject to a Proposition 2 ½ Override.

Acting Chief Greg Massak advised that he was in negotiations with the unions at the time, and he could not assure that the \$100,000 would be used to fund the police chief position.

Paul Wilson agreed not to make a formal amendment to the FY11 FinCom Recommended amount.

#292 – Dog Officer

Bernard Mehserle Jr. asked for clarification of the expenses, whether it included a full time and part time dog officer. Kyle Keady advised that it does include a full time and part time dog officer. The position is stipended and the \$134.09 weekly stipend is split between the two employees. They serve under the Police Department.

Mr. Mehserle advised that he has placed calls to Jay Howlett, the full time dog officer, and they have gone unanswered. He suggested that the town eliminate the full time position and have only the part time position due to poor performance of the full time dog officer.

Acting Chief Massak advised that they have been looking into hiring a new person for the position. Town Administrator Kyle Keady advised that if the appropriation was not made for all \$7,000 then there would not be enough money to hire a replacement.

Mr. Meshlerle advised that he would not make an amendment FY11 FinCom Recommended amount. Instead, he would wait to see what corrective actions the Acting Chief would take.

#321 – Nashoba Valley Technical High School (NVTHS)

Paul Wilson asked how much the increase was this year and if there was a reserve fund at the NVTHS. Judith Klimkewicz, Superintendent of the school, asked to address the meeting, and was permitted to. The increase was \$64,544 over FY2010, which reflected the addition of 7 Shirley students. This increase was in line with the minimum assessment required by the state. There was a reserve fund that the school has used over the years, \$600,000 of which was used for FY2010. The remaining balance in the reserve fund was about \$1.4 million.

No amendment was requested to the FY11 FinCom Recommended amount.

#330 – School Department

Bob Prescott, Chair of the Regional School District Committee, and Susan Therriault, Chair of the Shirley School Committee, made a 10-minute presentation. The middle schools of both towns would be merging next year at the Shirley Middle School building, ahead of regionalization, which would greatly expand the programs for 6-8th grades. The Region would be receiving

\$330,000 from the state for FY2011 to fund transition costs during regionalization and would be receiving \$125,000 - \$150,000 of transportation aid for the region.

In general, regionalization has enabled the school district to enhance school and extra curricular program offerings and reduce class sizes for the same amount of funding.

Sylvia Shipton inquired about the MCAS results compared with previous years and how many students were enrolled at the schools. Superintendent Malcolm Reid was allowed to address the meeting. He advised that the MCAS scores in general have been increasing over the last several years, and a full explanation and comparison was printed in the FY 2010 Annual Town Report. 540 students were enrolled in K-8, and 240 were going to be coming from Ayer to the Middle School next year.

No amendment was requested to the FY11 FinCom Recommended amount.

#544 – Council on Aging

John Oelfke, Director of the Council on Aging, made a presentation. During FY2010, the Senior Center on 9 Parker Rd was able to be opened, largely due to the volunteer work and donations from both individuals in town and businesses. Since the Council on Aging moved the drop in center from the Town Offices to the Senior Center at 9 Parker Rd, 30% more people had been visiting it. Additional people have also been attending other programs that are offered in the afternoons.

An outreach worker, Kathy Becker, was hired for 8 hours a week using a grant from the state. Her initial focus was largely to help identify the unmet needs of seniors who do not/cannot come to the senior center. A mailing was sent out to individuals over 60 to introduce her and make people aware of the services she can provide.

For FY2010, there was no appropriation for building operations. The Council have been running the center on grants and donations, but need funding from the town in order to keep building open from about 9 am to 1 or 2 pm with the drop in center and café in the morning and programs in the afternoon - About \$20,000 is needed for the programs themselves, but the Council would be seeking grants and donations for that funding.

Amendment 1 John Oelfke moved that the town appropriate the sum of \$16,030 to cover building operations (Item 541D) at the new Senior Center subject to a Prop 2 ½ override of \$16,030. Motion seconded.

Frank Kolarik of the Finance Committee advised that while the finance committee had not specifically voted on this amount, they did have a general discussion that finding funding for the building, since we had spent \$100,000 to renovate it, would be reasonable to do.

Mr. Oelfke advised that this would be an average cost of \$8 per household.

The Board of Selectmen, the Treasurer's Office and the Accountant's office are jointly looking into a town trust fund, the Winslow Fund, that may be able be re-directed to support the expenses of the council on aging going forward as a sustainable resource. The fund has \$275,000, and generates \$12,000 a year of revenue. However, it needs to be researched further from a legal standpoint and until it is determined whether it can be used for this, we still need a funding source for the building operations right away.

The moderator declared a 10-minute recess so that Shirley Public Access could change the recording tapes. After 4 minutes, SPACO was finished, and the moderator resumed the meeting.

The Council on Aging had applied for a grant from the state to put solar electric in at the building, but did not receive the grant.

Theresa Richards inquired how much an override election would cost. Town Clerk Amy McDougall advised that it costs about \$2600 to \$2800 to do an election. Since it would be only one question, some Automark programming costs would be less, and we also have some election workers do volunteer, so we could shave about \$600 to \$800 off of this cost. There is a state primary scheduled in September. The election could be held on the same day, but a separate ballot would need to be used.

Linda McClellan asked why we don't pay for the utilities of the Senior Center since it is a town-owned building. Town Administrator Kyle Keady advised that since the Senior Center was opened during tough economic times when budgets were very tight, no funds have been available to allocate. The Center Town Hall is also a town building, and its appropriation was eliminated last year. It is self-sustaining/self-funding, and they have a building operation fund that the groups who use it contribute to. He advised that he believed the Senior Center was originally intended to operate on this model.

Hand Vote on Amendment #1 to #541-Council on Aging: Moderator declared a majority vote and the motion passed.

#692 – Memorial Day

Amendment 1 - Janice Snow moved to appropriate \$1,500 for Memorial Day Expenses for FY2011. The moderator advised that under the rules for amending upward, the maximum would be 10% or \$1,000, whichever is greater. Mrs. Snow agreed to amend her motion to \$1,000. Motion seconded.

Amendment 2 - Frank Kolarik of the finance committee moved to modify the motion to change the amount to \$1,500 and that it be subject to a Proposition 2 ½ Override.

Bob Eramo advised that he agreed that it was an important expenditure and was feeling torn between the options of having the town find a funding source or having it be voted on an override. He offered to pay the \$1,500 personally if the

override were to be held and fail. Enrico Cappucci offered to split the cost with him.

Mrs. Snow advised that while she sincerely appreciated the offers of payment from the two gentlemen, she strongly advocated that the town put the expense back in the budget for FY2012.

Hand Vote on Amendment 2: Passed by majority vote.

Counted Hand Vote on Amendment 1: 31 in favor, 42 opposed. Motion failed. Therefore, Amendment 2 stood.

The moderator advised that since discussion on the held items was complete, we would **vote on the held items.**

Kyle Keady moved that the town appropriate \$7,373,027 for the for the General Operating Budget of the Town for the period beginning July 1, 2010 through June 30, 2011, in order to defray the operations and other necessary and proper charges, costs, and expenses of the Boards, Commissions, Committees, Officers, and Departments of the Town, together with the payment of debt service, for said Fiscal Year 2011, with each item considered to be a separate appropriation, all as set forth in the Warrant, such amounts to be provided by:

\$7,348,497	from Raise and Appropriate
\$17,530	to be subject to a Proposition 2 ½ Override
\$7,000.00	to be appropriated by a transfer from the Dog Officer Revolving Fund

Hand Vote on the held items: Moderator declared a unanimous vote and the motion passed.

NOTE: The entire FY11 budget as passed by both votes is included at the end of these minutes for reference.

Motion made and seconded to adjourn until the next night, June 8, at 7:15pm. Meeting adjourned at 9:50pm.

The Moderator opened the **second night** of the town meeting on June 8, 2010 at 7:15pm. 63 voters had checked in by 8:18pm. The tellers and check-in personnel were the same as the first night.

Article 5. Adopt Sewer Department Budget for FY11.

Armand Deveau moved that the Town appropriate **\$1,481,991** to be expended by the Sewer Commissioners, as and for the Budget of the Sewer Department for the period from July 1, 2010 through June 30, 2011, in order to defray the operations and other necessary and proper charges, costs, and expenses of the Sewer Department for said Fiscal Year 2011, with each item considered to be a separate appropriation, as set forth in

the Warrant, with such amounts to be provided from estimated revenues of **\$894,584** from Betterment Assessments and an estimated **\$457,407** from User Fees and **\$130,000** from Retained Earnings. Kyle Keady seconded.

LINE 442: SEWER DEPARTMENT BUDGET

Description	Appropriated FY10	Requested FY11
Wages, Hourly	\$ 29,836	\$ 29,836
Health Insurance	\$ 12,725	\$ 13,766
Medicare	\$ 455	\$ 479
Contracted Services / Operations & Maintenance	\$ 426,835	\$ 426,626
General Operations / User Expenses	\$ 86,700	\$ 86,700
Reserve Fund	\$ 30,000	\$ 30,000
Capital Assessments & Debt Service / Betterment Expenses	\$ 895,724	\$ 894,584
Total Sewer Department	\$ 1,482,275	\$ 1,481,991
Sewer Enterprise Fund Indirect Cost Expenses	\$ 40,429	\$ 40,429
Total Sewer Department Enterprise Fund Spending	\$ 1,522,704	\$ 1,522,420

Finance Committee recommended favorable action.

Hand Vote: Moderator declared unanimous vote in favor; motion carried.

Article 6. Adopt Ambulance Department Budget for FY11.

Armand Deveau moved that the Town appropriate **\$106,125** to be expended by the Ambulance Department for the period from July 1, 2010 through June 30, 2011 in order to defray the operations and other necessary and proper charges, costs, and expenses of the Ambulance Department for said Fiscal Year 2011, with each item considered to be a separate appropriation, as set forth in the Warrant.; such amounts to be provided from **36,125** in retained earnings and estimated receipts of **\$70,000** in User Fees to be charged by the Ambulance Department. Kyle Keady seconded.

LINE 231: AMBULANCE DEPARTMENT BUDGET

Description	Appropriated FY10	Requested FY11
Salary, Ambulance Director	\$ 12,735	\$ 12,735
Wages, Hourly – On-Call EMTs, Billing Clerk	\$ 30,351	\$ 30,351
EMT Stipends	\$ 4,350	\$ 4,350
Health Insurance	\$ 24,925	\$ 27,531
Medicare	\$ 660	\$ 660
Expenses	\$ 25,498	\$ 25,498
Capital – Power Patient Stretcher	\$ 12,000	\$ 0
Reserve Fund	\$ 5,000	\$ 5,000

Total Direct Ambulance Department Expenses	\$ 115,519	\$ 106,125
Ambulance Enterprise Fund Indirect Cost Expenses	<u>\$ 49,967</u>	<u>\$ 49,967</u>
Total Ambulance Enterprise Fund Spending	\$ 165,486	\$ 156,092

Finance Committee recommended favorable action.

Hand Vote: Moderator declared unanimous vote in favor; motion carried.

Article 7. Adopt Curbside Solid Waste/Recycling Budget for FY11.

Armand Deveau moved that the Town appropriate \$150,000, to be expended by the Board of Health, for the period of July 1, 2010 through June 30, 2011 in order to defray the operations and other necessary and proper charges, costs and expenses associated with the Solid Waste/Recycling Curbside Collection Program; such amount to be provided from an estimated \$150,000 in User Fees. Kyle Keady seconded.

Finance Committee recommended favorable action.

Hand Vote: Moderator declared unanimous vote in favor; motion carried.

Article 8. Approve Five-year Capital Improvement Program

Armand Deveau moved that the Town approve the Capital Improvement Program for Fiscal Year 2011 and the ensuing four years as set forth in the Warrant. Kyle Keady seconded.

Finance Committee Chairman Frank Kolarik advised that the Finance Committee recommended deferring all Capital Expenditures to a planned Fall 2010 Special Town Meeting.

Hand Vote: Moderator declared unanimous vote in favor; motion carried.

A copy of the Five-Year Capital Improvement Plan follows:

Article 9. Accept Wage & Salary Classification Plan and Wage Scale

Armand Deveau moved that the Town accept its Salary & Wage Scale, most recently amended under Article 9 of the Special Town Meeting held on November 14, 2009, for Fiscal Year 2011, as set forth in Appendix A and Appendix B of the Warrant. Kyle Keady seconded.

Hand Vote: 1 opposed. Moderator declared a clear majority in favor of the motion; motion carried.

Copies of the Wage & Salary Classification Plan and FY11 Wage Scale follow:

Article 10. Authorize Transfers for Managing Debt.

Armand Deveau moved that the Town authorize the Treasurer, with the approval of the Selectmen and the Finance Committee, to transfer funds among Line Items #711, Debt Service (Long-term Principal and Interest and Short Term Interest) and Line #712, Debt Issue Cost (Expense) in the Budget for Fiscal Year 2011; provided that such transfers remain within the total appropriations for these Line Items and Sub-accounts. Kyle Keady seconded.

Finance Committee recommended favorable action.

Hand Vote: Moderator declared unanimous vote in favor; motion carried.

Article 11. Renew Limited Additional Property Tax Exemption for Qualified Persons.

Armand Deveau moved that the Town accept the provisions of Chapter 73, Section 4, of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, to allow an additional property tax exemption, which shall be uniform for all exemptions, but not to exceed more than a 100% additional property tax exemption, for Fiscal Year 2011, for those who qualify (persons who are blind, infirm, orphaned, over 70 years of age, widowed, etc.) under Chapter 59, Section 5, of the Massachusetts General Laws. Kyle Keady seconded.

Finance Committee recommended favorable action.

Hand Vote: Moderator declared unanimous vote in favor; motion carried.

Article 12. Establish and Re-establish Departmental Revolving Funds.

Armand Deveau moved that the Town establish and re-establish the Departmental Revolving Funds described in items A through L of Article 20 of the Warrant for Fiscal Year 2011, in accordance with Chapter 44, Section 53 E 1/2 of the Massachusetts General Laws for the purposes and subject to the expenditure limits described in the Warrant. Kyle Keady seconded.

The moderator read the list of all of the Revolving Funds, providing an opportunity for people to hold an item and ask questions. No holds were requested.

A list of the revolving funds as printed in the warrant is below.

A. Council on Aging Van Service (Renew).

Fiscal Year Expenditure \$43,000

Limit:

Authorized Department: Council on Aging.

Program or Purpose: Van Service for transporting the elderly and disabled.

Revenue Source: Fees, Fares or Reimbursement from Montachusett
Regional Transportation Authority

- B. Advertising & Postage Costs Advanced by Applicants (Renew).**
Fiscal Year Expenditure \$5,000
Limit:
Authorized Department: Relevant Departments
Program or Purpose: Pass-through account for legal advertisements and postage funded by applicants for licenses, permits, etc.
Revenue Source: Charges, costs, and fees advanced or reimbursed by applicants in connection with applications for licenses, permits, variances, or other matters.
- C. Dog Licensing & Other Expenses (Renew).**
Fiscal Year Expenditure \$5,000
Limit:
Authorized Department: Town Clerk, Dog Officer.
Program or Purpose: Dog Licensing & other expenses relating to dogs.
Revenue Source: Fees for licensing dogs.
- D. Boarding & Caring for Impounded Dogs (Renew).**
Fiscal Year Expenditure \$5,000
Limit:
Authorized Department: Police Department.
Program or Purpose: Boarding and caring for impounded dogs.
Revenue Source: Fines and payments by owners for boarding dogs
- E. Wetlands By-law Expenses (Renew).**
Fiscal Year Expenditure \$25,000
Limit:
Authorized Department: Conservation Commission.
Program or Purpose: Pass-through account for expert engineering and consulting services retained by the Conservation Commission for review of applications under the Wetlands By-law.
Revenue Source: Costs and fees advanced by applicants.
- F. Fees & Expenses of Animal Control Officer (New).**
Fiscal Year Expenditure \$3,000
Limit:
Authorized Department: Board of Health
Program or Purpose: Pass-through account for paying the Animal Control Officer's stipend, fees and other expenses.
Revenue Source: Fees and charges assessed to owners for the inspection of domestic animals in accordance with Massachusetts General Laws Chapter 129, Section 19.
- G. Fees for Deputy Collector (Renew).**
Fiscal Year Expenditure \$15,000
Limit:
Authorized Department: Town Collector.
Program or Purpose: Pass-through account to pay statutory fees earned by the Town's Deputy Collector (independent contractor).
Revenue Source: Fees added to and paid with overdue bills.

H. Fees & Expenses of Field Driver (Renew).

Fiscal Year Expenditure \$2,000

Limit:

Authorized Department: Police Department.

Program or Purpose: Pass-through account for paying the fees and expenses of the Town's Field Driver.

Revenue Source: Charges assessed to owners for collecting, transporting, and impounding their strayed animals.

I. Fees & Expenses of Police Lock-up (Renew).

Fiscal Year Expenditure \$5,000

Limit:

Authorized Department: Police Department.

Program or Purpose: Pass-through account for providing lock-up facilities to other governmental entities.

Revenue Source: Fees paid for use of cells

J. Expenses of Planning Board (Renew).

Fiscal Year Expenditure \$40,000

Limit:

Authorized Department: Planning Board.

Program or Purpose: Pass-through account for expert engineering, other consulting services & for legal advertising required & expenses incurred by the Planning Board for review of applications under its Subdivision Control Regulations.

Revenue Source: Costs and fees advanced by applicants.

K. Expenses of Recycling (Renew)

Fiscal Year Expenditure \$3,000

Limit:

Authorized Department: Board of Health.

Program or Purpose: Pass-through account for expenses of recycling cardboard, glass, metals, paper, plastics, etc.

Revenue Source: Payments for recycled materials

L. Expenses of Recreational Fields (Renew)

Fiscal Year Expenditure \$25,000

Limit:

Authorized Department: Recreation Fields Committee

Program or Purpose: For the costs of maintenance, equipment & supplies, renovation and/or improvements to any and all Town owned Recreation fields, including related design services

Revenue Source: Fees, Donations, Gifts

Finance Committee recommended favorable action.

Hand Vote: Moderator declared unanimous vote in favor; motion carried.

Article 13. Appropriate Chapter 90 Funds.

Armand Deveau moved that the Town appropriate, directly for expenditure by the Public Works Department, for such purposes as may be approved by Massachusetts Highway Department for capital expenditures, all Highway Aid received from the Commonwealth during Fiscal Year 2011, in accordance with Chapter 90 of the Massachusetts General Laws. Kyle Keady seconded.

Finance Committee recommended favorable action.

Hand Vote: Moderator declared unanimous vote in favor; motion carried.

Article 14. Post Employment Benefit Program

Armand Deveau moved that the Town vote to accept the provisions of Chapter 479 of the Acts of 2008 (codified as M.G.L Chapter 32B, Section 20), to provide for the establishment of an “Other Post Employment Benefits Liability Trust Fund” and further, to establish an “Other Post Employment Benefits Liability Trust Fund” to account for appropriations made to cover the unfunded actuarial liability for retirees’ health care and life insurance benefits. Kyle Keady seconded.

Finance Committee recommended favorable action.

Treasurer Kevin Johnston advised that no amount was recommended in the article to fund the Trust Fund; the article simply authorized the trust fund to be set up. We do have an obligation to eventually fund our unfunded liability, and this would demonstrate to the company that sets our bond rating that we are aware of the need and taking steps to address it.

Hand Vote: Moderator declared majority vote in favor; motion carried.

Article 15. Proposed Town By-Law – Sex Offender Residency

Armand Deveau moved that the Town amend the provisions of the Shirley Town Bylaws by adding a new Article XXVIII – “Sex Offender Residency Bylaw” as set forth in Appendix C of the Warrant. Kyle Keady seconded.

Finance Committee recommended favorable action.

Hand Vote: Majority vote attained; motion carried.

A copy of Appendix C of the Warrant for the June 7, 2010, town meeting follows.

NOTE: The Attorney General’s Office did approve this bylaw with a few small changes. These changes are marked with double lines through them and a box around them, as such: **EXAMPLE**
The AG also required the Police Department to submit a map that reflected the areas which the by-law sought to regulate. For official copies of the bylaw and map, please contact the Town Clerk’s office. The bylaw was effective as of the posting date of February 11, 2011.

APPENDIX C to the Warrant for the June 7, 2011 Annual Town Meeting

ARTICLE XXVIII **SEX OFFENDERS**

FINDINGS AND INTENT

A. It is the intent of this by-law to serve and to protect the Town's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the Town by creating areas around locations where children, or the elderly regularly congregate in concentrated numbers wherein certain registered sex offenders are prohibited from loitering and establishing temporary or permanent residence.

B. After careful consideration, the Town finds that this by-law is the most narrowly tailored means of limiting, to the fullest extent possible, the opportunity for registered sex offenders to approach or otherwise come in contact with children, or the elderly in places where children, or the elderly would naturally congregate, and that the protection of the health and safety of our children, and elderly is a compelling governmental interest.

C. By the enactment of this or any other by-law, the Town understands that it cannot remove the threat posed to or guarantee the safety of children, or the elderly, or assure the public that registered sex offenders will comply with the mandates of this statute. This legislation is intended to create a civil, non-punitive regulatory scheme in order to protect children, and the elderly to the extent possible under the circumstances and not as a punitive measure of any kind.

D. Registered sex offenders pose a clear threat to the children, and the elderly residing or visiting in the community. Because registered sex offenders are more likely than any other type of offender to reoffend for another sexual offense, the Town desires to impose safety precautions in furtherance of the goal of protecting the children and elderly. The purpose of this by-law is to reduce the potential risk of harm to children and the elderly the community by impacting the ability for registered sex offenders to be in contact with unsuspecting children and the elderly in locations that are primarily designed for use by or are primarily used by children and the elderly, the grounds of a public or private school for children, a center or facility that provides day care or children's services, a park, other public recreational facility, elderly housing facilities or the Senior Citizens Center. The Town desires to add location restrictions to such offenders to the extent state law is silent.

DEFINITIONS

The following words, terms and phrases, when used in this by-law, shall have the meanings ascribed to them in this by-law, except where the context clearly indicates a different meaning:

CHILD or CHILDREN: Person or persons under 18 years of age.

DAY-CARE CENTER: Any establishment, whether public, private or parochial, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Department of Early Education and Care.

ELDER or ELDERLY: Person or persons over 60 years of age.

ELDERLY HOUSING FACILITY/SENIOR CITIZENS CENTER/OVER 55 COMMUNITY: Includes any building or buildings which provides a group residence for the elderly or a location where the elderly gather and/or reside and is located within the Town of Shirley.

ESTABLISHING A RESIDENCE : To set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written execution or automatic renewal).

LOITERING: To remain for more than fifteen (15) minutes within a five hundred (500) foot distance of the location in question.

PARK: Includes active and passive public land designated for recreational or athletic use by the Town of Shirley and located within the Town of Shirley.

PERMANENT RESIDENCE: A place where a person lives, abides, lodges or resides for 14 or more consecutive days.

RECREATIONAL FACILITY: Includes, but is not limited to, a playground, a forest preserve, conservation area, jogging trail or running track, hiking trail, beach, water park, wading pool, soccer field, baseball field, football field, basketball court or hockey rink, whether publicly or privately owned, to which the public has a right of access as an invitee and which is located within ~~or potentially located within~~ the Town of Shirley.

REGISTERED SEX OFFENDER: For the purposes of this by-law shall mean: a) any person who is designated as a sexually violent predator pursuant to Chapter 6, § 178K(2)(c), of the Massachusetts General Laws and who is required to register as a sex offender pursuant to the guidelines of the Sex Offender Registry Board; b) any person who is required to register as a sex offender pursuant to Chapter 6, § 178C of the Massachusetts General Laws and for so long as such person is finally classified as a Level 3 offender pursuant to the guidelines of the Sex Offender Registry Board; and c) any person who is required to register as a sex offender pursuant to Chapter 6, § 178C of the Massachusetts General Laws, for so long as such person is finally classified as a Level 2 offender pursuant to the guidelines of the Sex Offender Registry Board, and who has committed a sex offense against a child, an elder and/or a mentally retarded person.

Level 1 Sex Offenders: Where the Sex Offender Registry Board determines that the risk of re-offense by an offender is low and the degree of dangerousness posed to the public by that offender is not such that a public safety interest is served by public availability, the Board shall give that offender a Level 1 designation. Information on Level 1 offenders will not be available to the public. Neither the police nor the Board have authority to disseminate information to the general public identifying a Level 1 offender. Information identifying Level 1 offenders may only be given to the Department of Correction, any county correctional facility, the Department of Youth Services, the Department of Social Services, the Parole Board, the Department of Probation and the Department of Mental Health, all city and town police departments and the Federal Bureau of Investigation for law enforcement purposes.

Level 2 Sex Offenders: Where the Board determines that the risk of re-offense is moderate and the degree of dangerousness posed to the public is such that a public safety interest is served by public availability of registration information, it shall give a level 2 designation to the sex offender.

The public shall have access to the information regarding a level 2 offender through the Local Police Department and through the Sex Offender Registry Board.

Level 3 Sex Offenders: Where the Board determines that the risk of re-offense is high and the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active dissemination, it shall give a level 3 designation to the sex offender.

The public shall have access to the information regarding a level 3 offender through the Local Police Departments and through the Sex Offender Registry Board.

SCHOOL: Any public or private educational facility that provides educational instruction to children in grades pre-K through 12.

SCHOOL BUS STOP: Any area designated by the public school district or by a private or parochial school within ~~or potentially within~~ the Town of Shirley as a school bus stop.

SEX OFFENDER and SEX OFFENSE: The same meanings as provided for in MGL c. 6, § 178C.

TEMPORARY RESIDENCE: A place where a person lives, abides, lodges or resides for a period of less than 14 consecutive days or 14 days in the aggregate during any calendar year, which is not the person's permanent address or place where the person routinely lives, abides, lodges or resides and which is not the person's permanent residence; but "temporary residence," shall not include residence at a hospital or other health care or medical facility for less than 14 consecutive days or 14 days in the aggregate during any calendar year.

RESIDENCY RESTRICTIONS

A. Prohibition. A registered sex offender is prohibited from establishing a permanent residence or temporary residence within 1,000 feet of any school, day-care center, park, other recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center; provided, however, that the prohibition contained in this by-law shall not apply to any level 3 offender, to the extent and in the manner such Level 3 offender is already governed by MGL c. 6, § 178K(2)(e).

B. Evidentiary matters; measurements. For purposes of determining the minimum distance separation under this section, the distance shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest outer property line of any school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center.

C. Exceptions. A registered sex offender residing within 1,000 feet of any school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center does not commit a violation of this by-law if any of the following apply:

(1) The registered sex offender established the permanent residence prior to the effective date of this by-law, and:

(a) Permanent residence was established by purchasing the real property where the residence is established, as long as the registered sex offender continues to reside in and does not move to another restricted location in Shirley different from the permanent residence established prior to the effective date of this by-law;

(b) Permanent residence was established through a valid, fixed-term, written lease or rental agreement, executed prior to the effective date of this by-law, as long as the registered sex offender continues to reside within and does not move to another restricted location in Shirley different from the permanent residence established prior to the effective date of this by-law; or

(c) Permanent residence was established through a verbal lease or rental agreement at the will of the landlord, as long as the registered sex offender continues to reside within and does not move to another restricted location in Shirley different from the permanent residence established prior to the effective date of this by-law.

(2) The registered sex offender is a minor living with his or her parent(s) or legal guardian(s), which parent(s) or legal guardian(s) has (have) established a permanent residence.

(3) The school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center within 1,000 feet of the registered sex offender's permanent residence was opened after the registered sex offender established the permanent residence.

D. Forfeiture of exception. If, either after the effective date of this by-law or after a new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center opens, a complaint or an indictment is issued by a court against a registered sex offender otherwise enjoying an exception under Subsection C that such sex offender has committed another sex offense, he/she will immediately forfeit that exception and be required to comply with this by-law.

E. Notice to move. A registered sex offender who resides on a permanent or temporary basis within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center shall be in violation of this by-law and shall, within 30 days of receipt of written notice of the registered sex offender's noncompliance with this by-law, move from said location to a new location, but said location may not be within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center. It shall constitute a separate violation for each day beyond the 30 days the registered sex offender continues to reside within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center. Furthermore, it shall be a separate violation each day that a registered sex offender shall move from one location in the Town to another that is within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center.

F. Penalties. Any violation of this section shall be enforced by noncriminal disposition pursuant to MGL c. 40, § 21D, as follows:

- (1) First offense by registered sex offender: noncriminal fine of \$150 and notification to offender that he/she has 30 days to move.
- (2) Subsequent offense by registered sex offender: noncriminal fine of \$300 and notification to offender's parole officer and/or probation officer, and the commonwealth's Sex Offender Registry Board, that the sex offender has violated a municipal by-law.

SAFETY ZONES

A. Prohibitions.

- (1) A registered sex offender is prohibited from entering upon the premises of a school or day-care center unless previously authorized specifically in writing by the school administration or day-care center owner.
- (2) A registered sex offender is prohibited from entering upon the premises of an elderly housing facility, over 55 Community or Senior Citizens Center, unless previously authorized in writing by the on-site manager of the elderly housing facility, over 55 Community or Senior Citizen Center.
- (3) A registered sex offender is prohibited from entering upon the premises of a park or any recreational facility.
- (4) A registered sex offender, after having received notice from the Shirley Police Department that he/she is loitering by having remained for more than fifteen (15) minutes within five hundred (500) feet of a school, a day care center, a park, any recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center, is prohibited from continuing to so loiter. For purposes of determining the minimum distance separation under this section, the distance shall be measured by following a straight line from the registered sex offender to the outer property line of the school, a day-care center, a park, any recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center.
- (5) A registered sex offender, after having received notice from the Shirley Police Department that he/she is loitering by having remained for more than fifteen (15) minutes within five hundred (500) feet of a school bus stop, is prohibited from continuing to so loiter; provided, however, that this prohibition shall not apply on days when the schools within the Town of Shirley are not in session.

B. Exceptions.

- (1) The prohibitions defined in this By-Law shall not be construed or enforced so as to prohibit a registered sex offender from exercising his or her right to vote in any federal, state or municipal election, conducting town and/or police business or from attending any religious service.

- (2) The prohibitions defined in this By-Law do not apply to a registered sex offender's place of residence when such residence is excepted under this By-Law.

C. Penalties.

- (1) Any violation of this section may be enforced by noncriminal disposition pursuant to MGL c. 40, § 21D, resulting in a noncriminal fine of \$150 for a first violation and a noncriminal fine of \$300 for each additional violation of this section. A registered sex offender commits a separate offense for each and every violation of this section.

EXEMPTIONS

The provisions of this by-law shall not be applicable to registered sex offenders incarcerated in any facilities owned, maintained and/or operated by the Town Of Shirley and/or the State of Massachusetts.

ENFORCEMENT

A. The Shirley Police Department shall be charged with the enforcement of this By-Law.

B. A written list describing the prohibited areas defined in this by-law inclusive of school bus stops, as well as a map depicting the residency restriction areas and a map depicting the safety zones exclusive of school bus stops, shall be created by the Town and maintained by the Shirley Police Department. As to school bus stops, the list and not the map depicting the safety zones shall govern. The Town shall review both the list and the maps no less than annually for changes. The list, the maps and a copy of this By-Law will be available to the public at the Shirley Police Department and Shirley Town Clerk's office, and on the Town of Shirley's website.

Article 16 Amend Protective Zoning By-Law – Flood Plain Protection Overlay District

Armand Deveau moved that the Town vote to amend its Zoning By-law in Section 4.12 – “Flood Plain Protection Overlay District”, Section 4.13 – “Water Supply and Wellhead Protection Overlay District”, and 1.7.7 – “Boundaries of Districts, as set forth in Appendix D of this Warrant. . Kyle Keady seconded.

Finance Committee recommended favorable action.

John Rounds of the Planning Board advised that this article was proposed in order to bring certain sections of the Zoning Bylaws into compliance with state and federal regulations. He confirmed that the Planning Board held a hearing for which proper notice was given and that the Planning Board voted to urge passage of these two amendments.

Hand Vote: Unanimous vote in favor of the article, and the motion carried.

A copy of Appendix D of the Warrant for the June 7, 2010, town meeting follows.

Note: The text of these changes to the Zoning Bylaws were approved as submitted by the Attorney General's office and subsequently posted on February 22, 2011.
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APPENDIX D to the Warrant for the June 7, 2011 Annual Town Meeting

Changes to the Town's 2005 Protective Zoning By-Laws

To see if the Town will amend its 2005 Protective Zoning By-Laws as follows:

I. By Deleting in Section 4 – “SPECIAL REGULATIONS, Subsection 4.12.2 “District Delineation” the following:

4.12.2. District Delineation

The general boundaries of the Flood Plain District are shown on the Town of Shirley Flood Insurance Rate Map (FIRM), in seven (7) panels, dated July 5, 1983, as Zones A, A 1-30 to indicate the 100 year flood plain. The exact boundaries of the District are defined by the 100 year water surface elevations shown on the FIRM and further defined by the Flood Profiles contained in the Flood Insurance Study, dated January 5, 1983. The floodway boundaries are delineated on the Town of Shirley Flood Boundary Floodway Map (FBFM), dated July 5, 1983, and further defined by the Floodway Data Tables contained in the Flood Insurance Study. These two (2) maps as well as the accompanying Study are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Conservation Commission, Board of Assessors, and Building Inspector and Zoning Enforcing Officer.

Within Zone A, where the 100 year flood elevation is not provided on the FIRM, the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the

Building Inspector. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this Bylaw and the State Building Code.

And replacing it with the following:

4.12.2 District Delineation

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Shirley designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Shirley are panel numbers 25017C0068E, 25017C0069E, 25017C0181E, 25017C0182E, 25017C0183E, 25017C0184E, 25017C0191E, 25017C0192E, 25017C0193E, 25017C0194E, 25017C0203E and 25017C0211E dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Planning Board Office.

II. By Deleting in Section 4 – “SPECIAL REGULATIONS, Subsection 4.12.3 – “Use Regulations” the following:

4.12.3. Use Regulations

The Flood Plain District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by Special Permit must be in compliance with Ch. 131, Sec. 40, MGL, and with

the requirements of the Massachusetts State Building Code pertaining to construction in the flood plains (currently Section 744).

Permitted Use - The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

- a. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.;
- b. Forestry and nursery uses;
- c. Outdoor recreational uses, including fishing, boating, play areas, etc.;
- d. Conservation of water, plants, wildlife;
- e. Wildlife management areas, foot, bicycle, and/or horse paths;
- f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises; and,
- g. Buildings lawfully existing prior to the adoption of these provisions.

And replacing it with the following:

4.12.3 Use Regulations

The Flood Plain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- a. Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");
- b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- d. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

Permitted Use - The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

- a. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.;
- b. Forestry and nursery uses;
- c. Outdoor recreational uses, including fishing, boating, play areas, etc.;
- d. Conservation of water, plants, wildlife;
- e. Wildlife management areas, foot, bicycle, and/or horse paths;
- f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises; and,
- g. Buildings lawfully existing prior to the adoption of these provisions.

Base Flood Elevation Data - Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

Notification of Watercourse Alteration - In a riverine situation The Shirley Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

- a. Adjacent Communities
- b. NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
- c. NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

III. By Adding to Section 4 – “SPECIAL REGULATIONS”, Subsection 4.13.4 – “Water Supply and Wellhead Protection Overlay District of the Town’s Protection Overlay District”, Paragraph (g). “Prohibited Uses”, the following item:

- 3. “All uses set forth in 310 CMR 22.21 (2)(a) and 310 CMR 22.21 (2)(b) unless designed in accordance with the performance standards specified therein.”

IV. By Deleting in Section 1 “GENERAL PROVISIONS”- Subsection 1.7 – “Boundaries of Districts”, the following

“1.7.7. Boundaries of the Flood Plain District are shown and set forth in the Shirley Flood Insurance Rate map (FIRM), dated July 5, 1983, or as subsequently revised, on file in the Planning Board Office.”

Article 17. Proposed Town By-Law Change - Council on Aging

Armand Deveau moved that the Town will vote to amend its Bylaws, Article V, “Records and Reports”, by deleting in Section 7, Subparagraph 2 the following sentence: “The Board of Selectmen shall annually appoint a council chairman.” Kyle Keady seconded the motion

Finance Committee recommended favorable action.

Frank Esielionis of the Council on Aging advised that the Council had requested the change.

Hand Vote: Unanimous vote in favor. Motion passed.

Note: The text of this change to the town Bylaws was approved as submitted by the Attorney General’s office and effective as of the posting date of February 22, 2011.

Article 18. Lease of the Dow Property

Armand Deveau moved that Town vote to authorize the Conservation Commission to lease for agricultural use for up to ten years, a portion of the land under its care and custody located on

Groton Road known as the "Dow Parcel" (Assessors' Map 95A, Parcel 7.14) and to authorize the Selectmen to file special legislation with the General Court, pursuant to Article 97, authorizing the Conservation Commission to lease the land known as the "Dow Parcel" (Assessors' Map 95A, Parcel 7.14) for agricultural use for up to ten years. Kyle Keady seconded the motion.

Finance Committee recommended favorable action.

Chair of the Conservation Committee, Denise Brauckmiller, advised that the Conservation Committee had voted in favor of the article.

Hand Vote: Moderator declared 2/3 majority in favor. Article passed.

Article 19. Special Legislation - Sewer Betterment Abatement - Phoenix Street

Armand Deveau moved that the Town vote to authorize the Board of Selectmen to request special legislation that would permit the Town to grant one abatement of the sewer betterments assessed upon the property located at 23 Phoenix Street, after the expiration of the six month period to petition for an abatement as provided for in MGL Ch. 80, § 5. Kyle Keady seconded the motion.

Finance Committee recommended favorable action.

It was advised in the copy of the Warrant with the Finance Committee's report and recommendations that the Sewer Commission supported the request.

Hand Vote: Unanimous vote in favor. Article Passed.

Article 20. Transfer to the Stabilization Fund for FY11.

Armand Deveau moved that the Town take no action on Article 20. Kyle Keady seconded the motion.

Hand Vote: Unanimous vote in favor of the motion. Motion carried.

Motion made and seconded to dissolve the meeting. ***Voice Vote: Aye's prevailed over the Nay's.*** The Moderator dissolved the Annual Town Meeting at 8:23pm.

Respectfully Submitted,

Amy R. McDougall
Town Clerk

Attachment: FY11 Budget as of Conclusion of Town Meeting (6-page document)

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